

The Gazette of India

EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

No. 5] NEW DELHI, TUESDAY, MARCH 31, 1959/CHAITRA 10, 1881

MINISTRY OF LAW (Legislative Department)

New Delhi, the 31st March, 1959/Chaitra 10, 1881 (Saka)

The following Act of Parliament received the assent of the President on the 20th March, 1959, and is hereby published for general information:—

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 1959

No. 8 of 1959

[20th March, 1959]

An Act further to amend the Workmen's Compensation Act, 1923

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 1959.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

8 of 1923.

2. In section 2 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), in sub-section (1),—

Amendment
of section 2

(i) clause (a) shall be omitted;

(ii) for clause (d), the following clause shall be substituted, namely:—

‘(d) “dependant” means any of the following relatives of a deceased workman, namely:—

(i) a widow, a minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly dependent on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;

(iii) if wholly or in part dependent on the earnings of the workman at the time of his death,

- (a) a widower,
- (b) a parent other than a widowed mother,
- (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate if married and a minor or if widowed and a minor,
- (d) a minor brother or an unmarried sister or a widowed sister if a minor,
- (e) a widowed daughter-in-law,
- (f) a minor child of a pre-deceased son,
- (g) a minor child of a pre-deceased daughter where no parent of the child is alive, or
- (h) a paternal grandparent if no parent of the workman is alive.';

(iii) after clause (f), the following clause shall be inserted, namely:—

'(ff) "minor" means a person who has not attained the age of 18 years;';

(iv) in clause (i), the words and figures "under the Medical Act, 1858, or any Act amending the same, or" shall be omitted. 21 & 22
Vict. c 90.

Amendment
of section 3.

3. In section 3 of the principal Act,—

(i) in clause (a) of the proviso to sub-section (1), for the word "seven", the word "three" shall be substituted;

(ii) for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

"(2) If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III for

such continuous period as the Central Government may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the contrary is proved, the accident shall be deemed to have arisen out of, and in the course of, the employment.

(2A) If any disease specified in Part C of Schedule III as an occupational disease peculiar to that employment has been contracted by any workman during the continuous period specified under sub-section (2) in respect of that employment and the workman has during such period been employed in such employment under more than one employer, all such employers shall be liable for the payment of compensation under this Act in such proportion as the Commissioner may, in the circumstances, deem just.

(3) The State Government in the case of employments specified in Part A and Part B of Schedule III, and the Central Government in the case of employments specified in Part C of that Schedule, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply within the State or the territories to which this Act extends, as the case may be, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.”;

(iii) in sub-section (4), for the word, brackets and figure “sub-sections (2)”, the word, brackets, figures and letter “sub-sections (2), (2A)” shall be substituted.

4. In section 4 of the principal Act, in sub-section (1),—

Amendment
of section 4.

(i) for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) Where death results from the injury and the deceased workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof;

(b) Where permanent total disablement results from the injury and the injured workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof;”;

(ii) for clause (d), the following clause shall be substituted, namely:—

“(d) Where temporary disablement, whether total or partial, results from the injury and the injured workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—a half-monthly payment of the sum shown against such limits in the fourth column thereof, payable on the sixteenth day—

(i) from the date of the disablement, where such disablement lasts for a period of twenty-eight days or more, or

(ii) after the expiry of a waiting period of three days from the date of the disablement, where such disablement lasts for a period of less than twenty-eight days,

and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter.”;

(iii) after the proviso, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—Any payment or allowance which the workman has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of clause (a) of the proviso.”.

Insertion of
new section
4A.

5. After section 4 of the principal Act, the following section shall be inserted, namely:—

Compensa-
tion to be
paid when
due and
penalty for
default

“4A. (1) Compensation under section 4 shall be paid as soon as it falls due.

(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case

may be, without prejudice to the right of the workman to make any further claim.

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner may direct that, in addition to the amount of the arrears, simple interest at the rate of six per cent. per annum on the amount due together with, if in the opinion of the Commissioner there is no justification for the delay, a further sum not exceeding fifty per cent. of such amount, shall be recovered from the employer by way of penalty."

6. In section 5 of the principal Act, in clause (c), for the words "in other cases", the words, brackets and letter "in other cases [including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b)]" shall be substituted. Amendment of section 5.

7. In section 8 of the principal Act, in sub-section (4), for the words "twenty-five rupees", the words "fifty rupees" shall be substituted. Amendment of section 8.

8. In section 10 of the principal Act, in sub-section (1), for the words "one year" wherever they occur, the words "two years" shall be substituted. Amendment of section 10.

9. In section 10B of the principal Act,—

Amendment of section 10B.

(i) in sub-section (1), after the word "death" wherever it occurs, the words "or serious bodily injury" shall be inserted; and the following *Explanation* shall be added at the end, namely:—

Explanation.—"Serious bodily injury" means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days.;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Nothing in this section shall apply to factories to which the Employees' State Insurance Act, 1948, applies."

Insertion of
new section
14A.

10. After section 14 of the principal Act, the following section shall be inserted, namely:—

Compensa-
tion to be
first charge
on assets
transferred
by employer.

“14A. Where an employer transfers his assets before any amount due in respect of any compensation, the liability wherefor accrued before the date of the transfer, has been paid, such amount shall, notwithstanding anything contained in any other law for the time being in force, be a first charge on that part of the assets so transferred as consists of immovable property.”.

Amendment
of section 15.

11. In section 15 of the principal Act, in sub-section (2),—

(a) for the words “six months”, the words “one year” shall be substituted; and

(b) the following proviso shall be added at the end, namely:—

“Provided that the Commissioner may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.”.

Omission
of section 18.

12. Section 18 of the principal Act shall be omitted.

Amendment
of section
18A.

13. In section 18A of the principal Act, in sub-section (1), for the words “one hundred”, the words “five hundred” shall be substituted.

Substitution
of new sec-
tion for
section 24.

14. For section 24 of the principal Act, the following section shall be substituted, namely:—

Appearance
of parties.

“24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector appointed under sub-section (1) of section 8 of the Factories Act, 1948, or under sub-section (1) of section 5 of the Mines Act, 1952, or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with the permission of the Commissioner, by any other person so authorised.”.

Amendment
of section 30.

15. In section 30 of the principal Act, after clause (a), the following clause shall be inserted, namely:—

“(aa) an order awarding interest or penalty under section 4A;”.

63 of 1948.
35 of 1952.

16. In section 32 of the principal Act, in sub-section (2), after clause (n), the following clauses shall be inserted, namely:—

Amendment
of section
32

“(o) for prescribing abstracts of this Act and requiring the employers to display notices containing such abstracts;

(p) for prescribing the manner in which diseases specified as occupational diseases may be diagnosed;

(q) for prescribing the manner in which diseases may be certified for any of the purposes of this Act;

(r) for prescribing the manner in which, and the standards by which, incapacity may be assessed.”.

17. For Schedule I to the principal Act, the following Schedule shall be substituted, namely:—

Substitution
of new Schedule for
Schedule I.

“SCHEDULE I

[See sections 2(r) and (4)]

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

Serial No.	Description of injury	Percentage of loss of earning capacity
1	Loss of both hands or amputation at higher sites	100
2	Loss of a hand and a foot	100
3	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot.	100
4	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential	100
5	Very severe facial disfigurement	100
6	Absolute deafness	100
<i>Amputation cases—upper limbs (either arm)</i>		
7	Amputation through shoulder joint	90
8	Amputation below shoulder with stump less than 8" from tip of acromion	80
9	Amputation from 8" from tip of acromion to less than 4 1/2" below tip of olecranon	70
10	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4 1/2" below tip of olecranon	60
11	Loss of thumb	30
12	Loss of thumb and its metacarpal bone	40
13	Loss of four fingers of one hand	50
14	Loss of three fingers of one hand	30
15	Loss of two fingers of one hand	20
16	Loss of terminal phalanx of thumb	20
<i>Amputation cases—lower limbs</i>		
17	Amputation of both feet resulting in end-bearing stumps.	90
18	Amputation through both feet proximal to the metatarso-phalangeal joint	80

Serial No.	Description of injury	Percentage of loss of earning capacity
19	Loss of all toes of both feet through the metatarso-phalangeal joint	40
20	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
21	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
22	Amputation at hip	90
23	Amputation below hip with stump not exceeding 5" in length measured from tip of great trochanter	80
24	Amputation below hip with stump exceeding 5" in length measured from tip of great trochanter but not beyond middle thigh	70
25	Amputation below middle thigh to 3 1/2" below knee	60
26	Amputation below knee with stump exceeding 3 1/2" but not exceeding 5"	50
27	Amputation below knee with stump exceeding 5"	40
28	Amputation of one foot resulting in end-bearing	30
29	Amputation through one foot proximal to the metatarso-phalangeal joint	30
30	Loss of all toes of one foot through the metatarso-phalangeal joint	20
<i>Other injuries</i>		
31	Loss of one eye, without complications, the other being normal	40
32	Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal	30
<i>Loss of—</i>		
<i>A.—Fingers of right or left hand</i>		
<i>Index finger</i>		
33	Whole	14
34	Two phalanges	11
35	One phalanx	9
36	Guillotine amputation of tip without loss of bone	5
<i>Middle finger</i>		
37	Whole	12
38	Two phalanges	9
39	One phalanx	7
40	Guillotine amputation of tip without loss of bone	4
<i>Ring or little finger</i>		
41	Whole	7
42	Two-phalanges	6
43	One phalanx	5
44	Guillotine amputation of tip without loss of bone	2
<i>B.—Toes of right or left foot</i>		
<i>Great toe</i>		
45	Through metatarso-phalangeal joint	14
46	Part, with some loss of bone	3

Serial No.	Description of injury	Percentage of loss of earning capacity
<i>Any other toe</i>		
47	Through metatarso-phalangeal joint	3
48	Part, with some loss of bone	1
<i>Two toes of one foot, excluding great toe</i>		
49	Through metatarso-phalangeal joint	5
50	Part, with some loss of bone	2
<i>Three toes of one foot, excluding great toe</i>		
51	Through metatarso-phalangeal joint	6
52	Part, with some loss of bone	3
<i>Four toes of one foot, excluding great toe</i>		
53	Through metatarso-phalangeal joint	9
54	Part, with some loss of bone	3"

18. In Schedule II to the principal Act,—

Amendment
of Schedule
II.

(i) for clauses (i) to (ix), the following clauses shall be substituted, namely:—

“(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle; or

(ii) employed, otherwise than in a clerical capacity, in any premises wherein or within the precincts whereof a manufacturing process as defined in clause (k) of section 2 of the Factories Act, 1948, is being carried on, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used; or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof twenty or more persons are so employed; or

(iv) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or

(v) employed, in any mine as defined in clause (j) of section 2 of the Mines Act, 1952, in any mining operation

or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or

(vi) employed as the master or as a seaman of—

(a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or

(b) any ship not included in sub-clause (a), of twenty-five tons net tonnage or over; or

(c) any sea-going ship not included in sub-clause (a) or sub-clause (b) provided with sufficient area for navigation under sails alone; or

(vii) employed for the purpose of—

(a) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits of any port subject to the Indian Ports Act, 1908, of goods which ^{15 of 1908.} have been discharged from or are to be loaded into any vessel; or

(b) warping a ship through the lock; or

(c) mooring and unmooring ships at harbour wall berths or in pier; or

(d) removing or replacing dry dock calsoons when vessels are entering or leaving dry docks; or

(e) the docking or undocking of any vessel during an emergency; or

(f) preparing splicing coil springs and check wires, painting depth marks on lock-sides, removing or replacing fenders whenever necessary, landing of gangways, maintaining life-buoys up to standard or any other maintenance work of a like nature; or

(g) any work on jolly-boats for bringing a ship's line to the wharf; or

(viii) employed in the construction, maintenance, repair or demolition of—

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof; or

(b) any dam or embankment which is twelve feet or more in height from its lowest to its highest point, or

(c) any road, bridge, tunnel or canal; or

(d) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

(ix) employed in setting up, maintaining, repairing or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard or fittings and fixtures for the same; or”;

(ii) in clause (xiii), after the words “Railway Mail Service”, the words “or as a telegraphist or as a postal or railway signaler” shall be inserted;

(iii) in clause (xvi), for the words “fifty” and “twenty”, the words “twenty-five” and “twelve” shall respectively be substituted;

(iv) in clause (xxvi), for the words “one hundred”, the word “fifty” shall be substituted;

(v) in clause (xxvii), the word “or” shall be inserted at the end, and after that clause, the following clauses shall be inserted, namely:—

“(xxviii) employed in or in connection with the construction, erection, dismantling, operation or maintenance of an aircraft as defined in section 2 of the Indian Aircraft Act, 1934; or

22 of 1934

(xxix) employed in farming by tractors or other contrivances driven by steam or other mechanical power or by electricity; or

(xxx) employed, otherwise than in a clerical capacity, in the construction, working, repair or maintenance of a tube-well; or

(xxxi) employed in the maintenance, repair or renewal of electric fittings in any building; or

(xxxii) employed in a circus.”.

Amendment
of Schedule
III.

19. In Schedule III to the principal Act,—

(i) for Part B, the following Part shall be substituted, namely:—

“PART B

Poisoning by lead, its alloys or compounds or its sequelae excluding poisoning by lead tetra-ethyl.	Any process involving the handling or use of lead or any of its preparations or compounds except lead tetra-ethyl.
Poisoning by phosphorus or its compounds, or its sequelae.	Any process involving the use of phosphorus or its preparations or compounds.
Poisoning by mercury, its amalgams and compounds, or its sequelae.	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene, or its homologues, their amido and nitroderivatives or its sequelae.	Any process involving the manufacture, distillation, or use of benzene, benzol, benzene homologues and amido and nitroderivatives.
Chrome ulceration or its sequelae.	Any process involving the use of chromic acid or bichromate of ammonium potassium or sodium, or their preparations.
Poisoning by arsenic or its compounds, or its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to—	
(a) radium and other radio-active substances;	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
(b) X-rays.	
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Poisoning by halogenated hydrocarbons of the aliphatic series and their halogen derivatives.	Any process involving the manufacture, distillation and use of hydrocarbons of the aliphatic series and their halogen derivatives.
Poisoning by carbon disulphide or its sequelae.	Any employment in— (a) the manufacture of carbon disulphide; or (b) the manufacture of artificial silk by viscose process; or (c) rubber industry; or (d) any other industry involving the production or use of products containing carbon disulphide or exposure to emanations from carbon disulphide.
Occupational cataract due to infra-red radiations.	Any manufacturing process involving exposure to glare from molten material or to any other sources of infra-red radiations.
Telegraphist's Cramp.	Any employment involving the use of telegraphic instruments.”

(ii) after Part B, the following Part shall be inserted, namely:—

“PART C

Silicosis	Any employment involving exposure to the inhalation of dust containing silica.
Coal Miners' Pneumoconiosis	Any employment in coal mining.
Asbestosis	Any employment in—
		(1) the production of—
		(i) fibro cement materials; or
		(ii) asbestos mill board; or
		(2) the processing of ores containing asbestos,
Bagassosis	Any employment in the production of bagasse mill board or other articles from bagasse ”

20. In Schedule IV to the principal Act, the words “of Adult” wherever they occur, shall be omitted.

Amendment
of Schedule
IV.

G. R. RAJAGOPAUL, Secy.

